

# EXHIBIT 1

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	TENTH JUDICIAL CIRCUIT
Stephanie Nicole Sanders,	)	
	)	
Plaintiff,	)	SUMMONS
	)	
v.	)	Case No.: 2020-CP-04-_____
	)	
Carrol Corporation, LLC and Jane	)	
Doe, a citizen and resident of	)	
Anderson County, individually and	)	
as agent of Carrol Corporation, LLC.	)	
	)	
Defendant.	)	
_____	)	

TO: CARROL CORPORATION, LLC AND JANE DOE, A CITIZEN AND RESIDENT OF ANDERSON COUNTY, INDIVIDUALLY AND AS AGENT OF CARROL CORPORATION, LLC, DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office at 1209 North Main Street, P.O. Box 2861, Anderson, South Carolina 29622 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint.

THE ALLEN & ALLEN LAW FIRM

s/Donald L. Chuck Allen  
Donald L. Chuck Allen, SC Bar #10421

s/Joshua C .B. Allen  
Joshua C. B. Allen, SC Bar #80398  
Attorneys for Plaintiff  
PO BOX 2861  
Anderson, SC 29622  
864-226-6184

Dated: February 26, 2020  
Anderson, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF ANDERSON	)	COURT OF COMMON PLEAS
	)	TENTH JUDICIAL CIRCUIT
Stephanie Nicole Sanders,	)	
	)	
Plaintiff,	)	COMPLAINT
	)	
v.	)	Case No.: 2020-CP-04-_____
	)	
Carrol Corporation, LLC and Jane	)	
Doe, a citizen and resident of	)	
Anderson County, individually and	)	
as agent of Carrol Corporation, LLC.	)	
	)	
Defendant.	)	
_____	)	

The Plaintiff would respectfully show unto the Court and allege:

### JURISDICTION AND VENUE

1. That the Plaintiff is a citizen and resident of Anderson County, South Carolina, That the Defendant, Carrol Corporation, LLC, is a corporation organized pursuant to the laws of one of the States of the United States and owns and operates the below described fast food restaurant located in Anderson County, South Carolina. That the Defendant, Jane Doe, was the store manager at the time of the below described incident and upon information and belief, she is a citizen and resident of Anderson County, South Carolina. That this Court has jurisdiction over the parties and the subject matter contained herein.

### FACTUAL ALLEGATIONS

2. That on or about September 4, 2018, the Plaintiff, Stephanie N. Sanders, was injured when she abruptly slipped and fell as the result of a liquid discharge coming out of a drainpipe at the Burger King restaurant located in

Powdersville on September 4, 2018 which was at, near or upon the handicap walkway "curb cut out" of the north side handicap access as well as the handicap parking space. That the Plaintiff was at the establishment as a business invitee when she attempted to enter the public restaurant by way of the handicap access. That the dangerous substance was at, near or upon the handicap access and handicap parking space and appeared to flow continuously. That the area around the handicap access and handicap parking space the Plaintiff was utilizing was unsafe, hazardous and unreasonably dangerous due to the streaming and accumulation of the liquid discharge all while the Defendants had actual or constructive knowledge of same.

**FOR A FIRST CAUSE OF ACTION**

**(Recklessness, Gross Negligence and Negligence)**

3. That Paragraphs 1 and 2 are incorporated into this First Cause of Action as if repeated verbatim herein.

4. That the Defendants, jointly and severally, had an affirmative duty to the Plaintiff as a business invitee on its property, to warn of or eliminate any unreasonable risks or dangers on its premises.

5. That the Defendants, jointly and severally, breached this duty by allowing or permitting, through its negligence, gross negligence, recklessness, wilfulness and wantonness, the hazard and defective conditions to remain on the property in a place allowed for the passage of the Plaintiff and other customers despite having actual or constructive knowledge of same.

6. That as a direct and proximate result of the negligence, gross

negligence, recklessness, wilfulness and wantonness of the Defendants, both jointly and severally, the Plaintiff sustained serious, severe and permanent injuries to her right knee and ankle. That such injuries caused the Plaintiff to suffer extreme pain and suffering and to incur numerous medical expenses. That the Plaintiff should be granted a judgment against the Defendants, both jointly and severally, in a sum to be determined by a jury, for actual and punitive damages.

WHEREFORE, the Plaintiff seeks a judgment against the Defendants, in a sum to be determined by a jury, for actual and punitive damages and for such other and further relief as this Court deems just and proper.

Plaintiffs demand a jury trial.

THE ALLEN & ALLEN LAW FIRM

s/Donald L. Chuck Allen  
Donald L. Chuck Allen, SC Bar #10421

s/Joshua C. B. Allen  
Joshua C. B. Allen, SC Bar #80398  
Attorneys for Plaintiff  
PO Box 2861  
Anderson, SC 29622  
(864)226-6184


Dated: February 26, 2020  
Anderson, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF ANDERSON	)	COURT OF COMMON PLEAS
	)	TENTH JUDICIAL CIRCUIT
Stephanie Nicole Sanders,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF SERVICE
	)	
v.	)	Case No.: 2020-CP-04-00591
	)	
Carrol Corporation, LLC and Jane	)	
Doe, a citizen and resident of	)	
Anderson County, individually and	)	
as agent of Carrol Corporation, LLC.	)	
	)	
Defendant.	)	
	)	

**PERSONALLY APPEARED BEFORE ME**, the undersigned deponent, who being duly sworn, says that (s)he served the Summons and Complaint in the above matter on the Defendants:

- ( ) by delivering to \_\_\_\_\_ personally,
- ( ) by delivering to \_\_\_\_\_, a person of age and discretion at the resident of the Defendant, leaving with \_\_\_\_copies of the same at \_\_\_\_\_;
- ( ) by delivering to Detrice Westpoint, shift manager who is an agent of the Carrol Corporation, LLC Located at 3001 Highway 153, Piedmont, SC;

on the 7th of March, 2020, and that deponent is not a party to this action, and has no interest therewith or connection therewith.



Process Server

SWORN TO BEFORE ME THIS THE

20th day of March, 2020

Bretta C. Stokes  
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 12-31-29

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF ANDERSON	)	COURT OF COMMON PLEAS
	)	TENTH JUDICIAL CIRCUIT
Stephanie Nicole Sanders,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF DEFAULT
	)	
v.	)	Case No.: 2020-CP-04-00591
	)	
Carrol Corporation, LLC and Jane	)	
Doe, a citizen and resident of	)	
Anderson County, individually and	)	
as agent of Carrol Corporation, LLC.	)	
	)	
Defendant.	)	

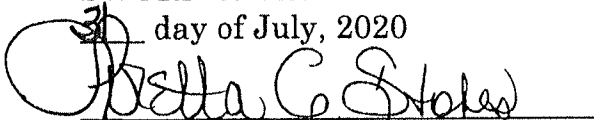
PERSONALLY APPEARED BEFORE ME, Donald L. Chuck Allen, attorney for the Plaintiff, who, after being duly deposed and sworn, states that the Defendants, Carrol Corporation, LLC and Jane Doe, were served by personal service a Summons and Complaint on March 7, 2020 as evidenced by an Affidavit of Service filed with the Anderson County Clerk of Court; more than thirty (30) days have elapsed since such service and that no answer, demurrer, or other pleadings have been received on behalf of the Defendants, Carrol Corporation, LLC and Jane Doe.

THE ALLEN & ALLEN LAW FIRM



Donald L. Chuck Allen, SC Bar #10421  
 Attorney for Plaintiff  
 PO Box 2861  
 Anderson, SC 29622  
 (864)226-6184

SWORN to before me this the  
 31 day of July, 2020




Notary Public of South Carolina  
 My Commission Expires:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON ) COURT OF COMMON PLEAS  
 ) TENTH JUDICIAL CIRCUIT  
  
Stephanie Nicole Sanders, )  
 )  
Plaintiff, ) AFFIDAVIT OF SERVICE  
 )  
v. ) Case No.: 2020-CP-04-00591  
 )  
Carrol Corporation, LLC and Jane )  
Doe, a citizen and resident of )  
Anderson County, individually and )  
as agent of Carrol Corporation, LLC. )  
 )  
Defendant. )  
\_\_\_\_\_ )

PERSONALLY APPEARED BEFORE ME, the undersigned deponent, who being duly sworn, says that (s)he served the Summons and Complaint in the above matter on the Defendants:

- ( ) by delivering to \_\_\_\_\_ personally,  
( ) by delivering to \_\_\_\_\_,  
a person of age and discretion at the resident of  
the Defendant, leaving with \_\_\_\_\_ copies of the same at  
\_\_\_\_\_;  
(✓) by delivering to Detrice Westpoint, shift manager  
who is an agent of the Carrol Corporation, LLC  
Located at 3001 Highway 153, Piedmont, SC \_\_\_\_\_;

on the 7th of March, 2020, and that deponent is not a party to this action, and has no interest therewith or connection therewith.

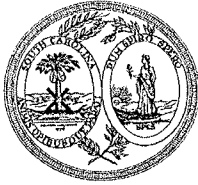
  
\_\_\_\_\_  
Process Server

SWORN TO BEFORE ME THIS THE

10th day of March, 2020

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 12-31-29





Common Pleas

**Case Caption:** Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al  
**Case Number:** 2020CP0400591  
**Type:** Affidavit/Default

So Ordered

s/Richard A. Shirley, Anderson County Clerk of Court

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

Stephanie Nicole Sanders

Plaintiff,

v.

Carrol Corporation, LLC and Jane Doe, a  
citizen and resident of Anderson County,  
Individually and as agent of Carrol  
Corporation, LLC

Defendants.

IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

C.A. No.: 2020-CP-04-00591

**AFFIDAVIT OF**

Personally appearing before me, Steven Sanders, who, being first duly sworn, says as follows:

1. My name is Steven Sanders. I am a District Manager for Carrols LLC, which owns and operates Burger King Restaurants, among other things. As District Manager for Carrols LLC, I am responsible for 10 Burger King restaurants, including the one located at 3001 Highway 153 in Piedmont, South Carolina. The information contained in this affidavit is within my personal knowledge and information to which I have access in the ordinary course of business.

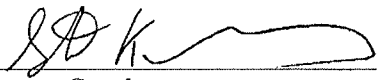
2. Detrice Westpoint is one of the shift managers at 3001 Highway 153 in Piedmont, South Carolina. There are multiple shift managers at each Burger King restaurant owned and operated by Carrols LLC. Each store also has Assistant General Managers and a General Manager, all of which rank above shift managers. Shift managers, including Ms. Westpoint, are non-exempt, hourly employees. They typically make between \$12 and \$13 per hour. They have no authority to hire or fire employees.

3. Shift managers do not have any authority to accept service of process on behalf of Carrols LLC. In fact, the Assistant General Managers and General Managers do not have authority to accept service of process on behalf of Carrols LLC, nor do District Managers.

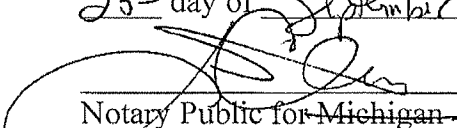
4. Detrice Westpoint does not and never has had authority to receive process on behalf of Carrols LLC. Detrice Westpoint is not authorized by law to receive process on behalf of Carrols LLC.

5. I am not familiar with any entity called "Carrol Corporation, LLC." Detrice Westpoint is not employed by any enty called "Carrol Corporation, LLC."

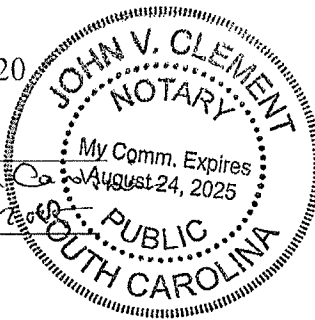
FURTHER AFFIANT SAYETH NOT.

  
Steven Sanders

Sworn to before me this  
23<sup>rd</sup> day of September, 2020

  
Notary Public for Michigan

My Commission Expires: 08/24/2025



STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Stephanie Nicole Sanders

Plaintiff,

v.

Carrol Corporation, LLC and Jane Doe, a  
citizen and resident of Anderson County,  
Individually and as agent of Carrol  
Corporation, LLC

Defendants.

IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

C.A. No.: 2020-CP-04-00591

**MOTION TO SET ASIDE THE ENTRY  
OF DEFAULT**

Pursuant to Rule 55(c), SCRPC, Carrols LLC (“Carrols LLC” or “Defendant”), improperly named as “Carrol Corporation, LLC,” hereby moves to set aside the default entered in this matter because proper service of process has never been effected upon Defendant.<sup>1</sup> Carrols LLC states the following as grounds for this motion:

1. Carrols LLC owns and operates the Burger King restaurant located at 3001 Highway 153 in Piedmont, South Carolina, which is where the incident alleged in the Complaint is alleged to have occurred.

2. There is no entity called “Carrol Corporation, LLC,” at least not one that is affiliated with Carrols LLC. Carrols LLC, rather than Carrol Corporation, LLC owns and operates the Burger King restaurant located at 3001 Highway 153 in Piedmont, South Carolina, which is

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<sup>1</sup> It is not clear that a default has actually been entered. Rather, Plaintiff filed an Affidavit of Default which does not actually seek the relief of entry of default within the substance of the Affidavit of Default. There is a signature page from the Clerk of Court that says “So Ordered” attached to the Affidavit of Default. Out of caution, Defendant is treating this as entry of default. However, to the extent a default has not been entered, this filing should be treated as an opposition to any entry of default.

where the incident alleged in the Complaint is alleged to have occurred. Carrols LLC is not named as a defendant and, therefore, the default that has been entered is not binding on Carrols LLC.<sup>2</sup>

3. The sole service alleged is personal service upon “Detrice Westpoint, shift manager who is an agent of the Carrol Corporation, LLC” on March 7, 2020 (Affidavit of Service filed March 10, 2020). However, Detrice Westpoint is not, and never has been, authorized to accept service on behalf of Carrols LLC, or Jane Doe, or “Carrol Corporation, LLC”.

4. The South Carolina Rules of Civil Procedure provides for service of process upon a corporation “by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process ...” Rule 4(d)(3), SCRCF. The law is clear that “[s]ervice on a corporation may only be accomplished by service upon an authorized person.” *Langley v. Graham*, 322 S.C. 428, 430, 472 S.E.2d 259, 260, fn 2 (Ct. App. 1996).

5. To be authorized to receive service of process on behalf of a defendant, there must be evidence showing “the defendant intended to confer such authority” to receive service of process on the particular agent. *Moore v. Simpson*, 322 S.C. 518, 523, 473 S.E.2d 64, 67 (Ct. App. 1996). “Without specific authorization, **service is not effective when made upon an employee of the defendant, such as a secretary.**” *Id.* at 523-24, 473 S.E.2d at 67 (emphasis added); *see also Roberson v. Southern Finance of South Carolina*, 365 S.C. 6, 615 S.E.2d 112 (2005) (insufficient service of process when complaint served upon clerical employee of registered agent of defendant); *Graham Law Firm, P.A. v. Makawi*, 396 S.C. 290, 721 S.E.2d 430 (2012) (insufficient service of process when complaint served upon hostess of restaurant operated by

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<sup>2</sup> Carrols notes that in addition to the fundamental problem that Carrols LLC was not named, the failure to properly name Carrols was prejudicial as a practical matter because it prevented searches and automated hits from lawsuit filings from reaching counsel and the appropriate personnel who could have undertaken the appropriate action.

defendant). “The class of persons authorized to sign on behalf of defendants is narrow.” *Graham Law Firm, P.A.*, 396 S.C. at 295 721 S.E.2d at 433. ““Actual appointment for the specific purpose of receiving process normally is expected and the mere fact a person may be considered to act as defendant's agent for some purpose does not necessarily mean that the person has authority to receive process.”” *Id.* (citing *Moore*, 322 S.C. at 523, 473 S.E.2d at 67; *Hamilton v. Davis*, 300 S.C. 411, 414, 389 S.E.2d 297, 298 (Ct. App. 1990) (same).

6. Plaintiff has the burden of proving that the service of process was effected, including that the individual served had authority to accept service. *Moore*, 322 S.C. at 523 473 S.E.2d at 66; *Jensen v. Doe*, 292 S.C. 592, 594, 358 S.E.2d 148, 148–49 (Ct. App.1987) (plaintiff has the burden of showing the court has personal jurisdiction over defendant); *Brown v. Carolina Emerg. Physicians, P.A.*, 348 S.C. 569, 583, 560 S.E.2d 624, 632 (Ct. App. 2001) (finding the plaintiff had “failed to show” it effected proper service on the defendant where the process server left the summons and complaint with a secretary who held herself out to be the manager).

7. Here, Plaintiff has completely failed to meet her burden. Nothing in the Affidavit of Service provides any indication that Detrice Westpoint was authorized to accept service for Carrols LLC or Jane Doe (who is not even identified). Simply being shift manager is clearly insufficient. Rather, specific authorization to accept service is required, and the evidence of such authorization is completely lacking in this case.

8. The affidavit of Steven Sanders establishes that Detrice Westpoint does not and never has had authority to receive process on behalf of Carrols LLC. Sanders Aff. at ¶4, **Exhibit 1** hereto. Ms. Westpoint is one of multiple shift managers at this restaurant alone. Sanders Aff. at ¶2. Carrols LLC owns and operates hundreds of Burger King restaurants. Each store also has Assistant General Managers and a General Manager, all of which rank above shift managers. *Id.*

Shift managers, including Ms. Westpoint, are non-exempt, hourly employees. Id. They typically make between \$12 and \$13 per hour. Id. They have no authority to hire or fire employees. Id. Even for many levels above shift managers, such managers do not have any authority to accept service of process on behalf of Carrols LLC. Id.

9. Detrice Westpoint is not employed *in any capacity* nor does she have any agency relationship at all, with the named Defendants, “Carrol Corporation, LLC,” and Jane Doe. Clearly she cannot be authorized to accept service for these unknown and fictitious defendants.

10. Carrols LLC has properly designated a registered agent for service of process on Carrols LLC, pursuant to S.C. Code §33-44-108. The registered agent is Corporation Service Company, 508 Meeting Street, West Columbia, South Carolina 29169. **Exhibit 2** hereto. This designation is clearly available on South Carolina Secretary of State’s website for anyone with internet access. See id. There was nothing that prevented proper service upon Carrols LLC via its registered agent.<sup>3</sup>

11. Because service of process was ineffective, the default is void and any default judgment would be void. *See Momani v. Van Surdam*, 296 S.C. 409, 410, 373 S.E.2d 691, 692 (Ct. App. 1988) (“when a defendant is not properly served, ‘the Court has no jurisdiction of the defendant, and all proceedings based on the pretended service are void.’”); *Richardson Constr. Co., Inc. v. Meek Engineering and Const., Inc.*, 274 S.C. 307, 309, 262 S.E.2d 913, 915 (1980) (motion for relief from judgment grounded upon court's lack of jurisdiction “when warranted, is not discretionary but a matter of right.”); see also *BB&T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d 501, 503 (2006).

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<sup>3</sup> Moreover, S.C. Code §33-44-111 provides for service upon the Secretary of State where the agent for service of process cannot be found. There is nothing in the statutes that allows a party to choose an unauthorized low level employee to try and effect service, even after other efforts fail, which was not the case here.

12. Moreover, though not required, good cause exists to set aside the default. Carrols LLC has meritorious defenses in this case, including that there was no unreasonably dangerous condition, including, but not limited to that any defect was open and obvious, and plaintiff's comparative negligence.

13. In South Carolina, "it is the policy of the law to favor the trial of cases on the merits." *Renney v. Dobbs House, Inc.*, 275 S.C. 562, 274 S.E.2d 290, 292 (1981). "Any doubts about whether relief should be granted should be resolved in favor of setting aside the default so that the case may be heard on the merits." *Tolson v. Hodge*, 411 F.2d 123, 130 (4th Cir. 1969). South Carolina courts have consistently held the discretion to grant relief from an entry of default should be exercised, "[i]n the same liberal spirit in which [Section 15-27-130] was designed in furtherance of justice and in order that cases may be tried and disposed of upon their merits." *Graybar Electric Co., Inc. v. Rice*, 287 S.C. 518, 339 S.E.2d 883 (Ct. App. 1986) (citing *Marr v. Tesauero*, 283 S.C. 333, 322 S.E.2d 685 (S.C. App. 1984)); *Gaskins v. California Ins. Co.*, 195 S.C. 376, 11 S.E.2d 436 (1940). Thus, vacating the Entry of Default would serve the interests of justice and the well settled policies decisions concerning default situations.

This motion is further based on the pleadings in this case, the applicable statutory and case law, and such other matters and/or materials that may be presented to the Court before or during the hearing on this motion.



Respectfully submitted,

s/ Denny P. Major  
Denny P. Major, S.C. Bar No. 74907  
Email: [dmajor@hsblawfirm.com](mailto:dmajor@hsblawfirm.com)  
HAYNSWORTH SINKLER BOYD, P.A.  
ONE North Main Street, 2<sup>nd</sup> Floor (29601)  
P.O. Box 2048  
Greenville, SC 29602  
Telephone: (864) 240-3200  
Facsimile: (864) 240-3300

*Attorneys for Carrols LLC*

September 23 2020  
Greenville, South Carolina

Dated: \_\_\_\_\_

**WE SO MOVE:**

**THE ALLEN & ALLEN LAW FIRM**

s/Donald L. Chuck Allen  
Donald L. Chuck Allen, SC Bar#10421  
Joshua C. B. Allen, SC Bar #8098  
P.O. Box 2861  
Anderson, SC 29622  
864-226-6184

Attorneys for the Plaintiff, Stephanie Nicole Sanders

**I CONSENT:**

**HAYNSWORTH SINKLER BOYD, PA**

s/Denny P. Major  
Denny P. Major, SC Bar #74907  
PO BOX 2048  
Grenville, SC 29602  
864-240-3200

Attorney for Defendant, Carrols, LLC



Anderson Common Pleas

**Case Caption:** Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al  
**Case Number:** 2020CP0400591  
**Type:** Order/Continuance

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-10-28 14:50:46 page 3 of 3

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

**NOTICE OF ADR**

Stephanie Nicole Sanders

2020CP0400591

**PLAINTIFF(S)**

Filing Date: February 26, 2020

**Vs**

Carrol Corporation, Llc  
Jane Doe

**DEFENDANT(S)**

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

**Bryan Francis Hickey, PO Box 2048, Greenville, SC 29602, Phone (864) 240-3246**

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is

**Steven M. Krause, 207 E. Calhoun St., Anderson, SC 29621, Phone (864) 225-4000**

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice: **December 8, 2020.**

**Date: September 9, 2020**

Notice of this Order was given by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 09/09/2020.

**Plaintiff Attorney:**

Donald Leverette Allen  
PO Box 2861  
Anderson, SC 29622

**Defendant Attorney:**

Carrol Corporation, Llc  
3001 Hwy. 153  
Piedmont, SC 29673

Common Pleas Docket Clerk & ADR Coordinator

Elizabeth Beasley  
(864) 260-4298  
sebeasley@andersoncountysc.org

**Elizabeth Beasley**

---

**From:** Elizabeth Beasley  
**Sent:** Wednesday, January 13, 2021 9:58 AM  
**To:** Major, Denny  
**Cc:** rette@allenandallenlawfirm.com; chuck@allenandallenlawfirm.com; McIntosh, Lawton Secretary (Tammy Jennings); McIntosh, Lawton Law Clerk (Ashley Harris); Scott, Lisa M.  
**Subject:** RE: Motion "MSETAS-Motion/Set Aside Default" for Case "2020CP0400591-Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al" was added to a Motions Roster for 1/13/2021 at 10:15 AM

Thank you. I'll mark this matter as resolved and remove it from the docket. It will not be rescheduled.

***S. Elizabeth Beasley***

Civil Docket Clerk & ADR Coordinator  
Anderson County Clerk of Court  
P.O. Box 8002  
Anderson, SC 29621  
864-260-4298/864-260-4715(fax)

**From:** Major, Denny [mailto:dmajor@hsblawfirm.com]  
**Sent:** Wednesday, January 13, 2021 9:46 AM  
**To:** Elizabeth Beasley <sebeasley@andersoncountysc.org>  
**Cc:** rette@allenandallenlawfirm.com; chuck@allenandallenlawfirm.com  
**Subject:** RE: Motion "MSETAS-Motion/Set Aside Default" for Case "2020CP0400591-Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al" was added to a Motions Roster for 1/13/2021 at 10:15 AM

**CAUTION:** This email originated from outside of Anderson County's email system. Please do not click links or open attachments unless you recognize the sender and know the content is safe. If you have any questions, please contact the county helpdesk.

Ms. Beasley:

It appears that we have resolved the motion referenced herein, which is scheduled to be heard this morning at 10:15. We will be submitting a consent order regarding this motion. Consequently, there is no need for the hearing in this matter.

As always, please don't hesitate to let me know if you have any questions.

---

**HAYNSWORTH  
SINKLER BOYD**

Denny P. Major | Attorney

Direct 803.540.7923 | [dmajor@hsblawfirm.com](mailto:dmajor@hsblawfirm.com)

Haynsworth Sinkler Boyd, P.A.

1201 Main Street, 22nd Floor | Columbia, SC 29201

Main 803.779.3080 | Mobile 864.325.6663 | Fax 803.765.1243

Web | Bio | vCard | Map | LinkedIn | Blog

From: Courtmail04 DoNotReply@sccourts.org <Courtmail04 DoNotReply@sccourts.org>

Sent: Friday, December 11, 2020 4:25 PM

To: Major, Denny <[dmajor@hsblawfirm.com](mailto:dmajor@hsblawfirm.com)>

Subject: Motion "MSETAS-Motion/Set Aside Default" for Case "2020CP0400591-Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al" was added to a Motions Roster for 1/13/2021 at 10:15 AM

**\*CORRECTED\*** A Motion hearing has been scheduled for WEDNESDAY, January 13, 2020 to be heard virtually via WebEx before the Honorable R. Lawton McIntosh. To access this hearing go to [ScCourts.org](https://www.sccourts.org). Click on the "Calendar" tab at the top of the page and select "Monthly View". On the calendar that appears find the date of your hearing and click the "Circuit" link. Scroll to find Judge McIntosh's name and click to join his Virtual Courtroom. Please let our office know if you have any additional questions! Thank you.

S. Elizabeth Beasley

CP Docket Clerk

[sebeasley@andersoncountysc.org/864-260-4298](mailto:sebeasley@andersoncountysc.org/864-260-4298)

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Anderson, SC COC, CP/BS

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Stephanie Nicole Sanders

Plaintiff,

v.

Carrol Corporation, LLC and Jane Doe, a  
citizen and resident of Anderson County,  
Individually and as agent of Carrol  
Corporation, LLC

Defendants.

IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

C.A. No.: 2020-CP-04-00591

**CONSENT ORDER SETTING ASIDE  
DEFAULT**

This matter is before the Court on motion of Defendant Carrols LLC (“Carrols”), improperly named as “Carrol Corporation, LLC,” for an Order setting aside the entry of default in the above-referenced case. Plaintiff in this action alleges that she slipped and fell at the Burger King restaurant located at 3001 Highway 153 in Piedmont, South Carolina. Carrols argues that valid service has not been effected in this case. In addition, Carrols has represented that the Burger King restaurant at issue is owned and operated by Carrols LLC, not “Carrol Corporation, LLC,” and that the default is not binding on Carrols because Carrols has not been named as a defendant.

Counsel for Plaintiff consents to setting aside the entry of default and has indicated that Plaintiff will file an Amended Complaint that names “Carrols LLC” as the defendant rather than “Carrol Corporation, LLC.” Denny P. Major, counsel for Carrols in this matter, has indicated that he is authorized to accept service of process of such Amended Complaint.<sup>1</sup>

NOW, THEREFORE, with the consent of the parties hereto, it is hereby ORDERED that:

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<sup>1</sup> He has also made clear that such authority is limited only to accepting service of the Amended Complaint for Carrols LLC in this particular matter.



1. The entry of default is hereby set aside. Valid service of process has not been effected upon any defendant in this case, and the time for a defendant to serve an answer or otherwise respond has not started to run for any defendant.

2. Plaintiff is granted leave to file an Amended Complaint substituting Carrols LLC as the defendant in the place of Carrol Corporation, LLC.

3. The time for Carrols LLC to answer or otherwise respond to the Amended Complaint shall be 30 days from the date that Denny P. Major, counsel for Carrols in this matter, accepts service of the Amended Complaint via an Acceptance of Service that is signed by him.

AND IT IS SO ORDERED

WE CONSENT

s/ Donald L. Allen  
Donald Leverette Allen, Esq.  
The Allen & Allen Law Firm  
PO Box 2861  
Anderson, SC 29622  
[rette@allenandallenlawfirm.com](mailto:rette@allenandallenlawfirm.com)

WE CONSENT

s/ Denny P. Major  
Denny P. Major, S.C. Bar No. 74907  
HAYNSWORTH SINKLER BOYD, P.A.  
ONE North Main, 2<sup>nd</sup> Floor  
P.O. Box 2048  
Greenville, SC 29602  
(864) 240-3200  
[dmajor@hsblawfirm.com](mailto:dmajor@hsblawfirm.com)



Anderson Common Pleas

**Case Caption:** Stephanie Nicole Sanders VS Carrol Corporation, Llc , defendant, et al  
**Case Number:** 2020CP0400591  
**Type:** Order/Consent Order

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2021-01-21 09:49:11 page 3 of 3

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| STATE OF SOUTH CAROLINA           | ) |                            |
|                                   | ) |                            |
| COUNTY OF ANDERSON                | ) | COURT OF COMMON PLEAS      |
|                                   | ) | TENTH JUDICIAL CIRCUIT     |
| Stephanie Nicole Sanders,         | ) |                            |
|                                   | ) |                            |
| Plaintiff,                        | ) | AMENDED                    |
|                                   | ) | SUMMONS                    |
| v.                                | ) | Case No.: 2020-CP-04-00591 |
|                                   | ) |                            |
| Carroll, LLC and Jane             | ) |                            |
| Doe, a citizen and resident of    | ) |                            |
| Anderson County, individually and | ) |                            |
| as agent of Carroll, LLC.         | ) |                            |
|                                   | ) |                            |
| Defendant.                        | ) |                            |
|                                   | ) |                            |

TO: CARROLL, LLC AND JANE DOE, A CITIZEN AND RESIDENT OF  
ANDERSON COUNTY, INDIVIDUALLY AND AS AGENT OF CARROLL,  
LLC, DEFENDANTS AND THEIR ATTORNEY, DENNY P. MAJOR:

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Amended Complaint upon the subscriber at his office at 1209 North Main Street, P.O. Box 2861, Anderson, South Carolina 29622 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Amended Complaint.

THE ALLEN & ALLEN LAW FIRM

s/Donald L. Chuck Allen  
Donald L. Chuck Allen, SC Bar #10421

s/Joshua C .B. Allen  
Joshua C. B. Allen, SC Bar #80398  
Attorneys for Plaintiff  
PO BOX 2861  
Anderson, SC 29622  
864-226-6184

Dated: January 20, 2021  
Anderson, South Carolina

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| STATE OF SOUTH CAROLINA           | ) |                            |
|                                   | ) |                            |
| COUNTY OF ANDERSON                | ) | COURT OF COMMON PLEAS      |
|                                   | ) | TENTH JUDICIAL CIRCUIT     |
| Stephanie Nicole Sanders,         | ) |                            |
|                                   | ) |                            |
| Plaintiff,                        | ) | AMENDED                    |
|                                   | ) | COMPLAINT                  |
| v.                                | ) |                            |
|                                   | ) | Case No.: 2020-CP-04-00591 |
| Carroll, LLC and Jane             | ) |                            |
| Doe, a citizen and resident of    | ) |                            |
| Anderson County, individually and | ) |                            |
| as agent of Carroll, LLC.         | ) |                            |
|                                   | ) |                            |
| Defendant.                        | ) |                            |
|                                   | ) |                            |

The Plaintiff would respectfully show unto the Court and allege:

### JURISDICTION AND VENUE

1. That the Plaintiff is a citizen and resident of Anderson County, South Carolina, That the Defendant, Carroll, LLC, is a corporation organized pursuant to the laws of one of the States of the United States and owns and operates the below described fast food restaurant located in Anderson County, South Carolina. That the Defendant, Jane Doe, was the store manager at the time of the below described incident and upon information and belief, she is a citizen and resident of Anderson County, South Carolina. That this Court has jurisdiction over the parties and the subject matter contained herein.

### FACTUAL ALLEGATIONS

2. That on or about September 4, 2018, the Plaintiff, Stephanie N. Sanders, was injured when she abruptly slipped and fell as the result of a liquid discharge coming out of a drainpipe at the Burger King restaurant located in

Powdersville on September 4, 2018 which was at, near or upon the handicap walkway "curb cut out" of the north side handicap access as well as the handicap parking space. That the Plaintiff was at the establishment as a business invitee when she attempted to enter the public restaurant by way of the handicap access. That the dangerous substance was at, near or upon the handicap access and handicap parking space and appeared to flow continuously. That the area around the handicap access and handicap parking space the Plaintiff was utilizing was unsafe, hazardous and unreasonably dangerous due to the streaming and accumulation of the liquid discharge all while the Defendants had actual or constructive knowledge of same.

**FOR A FIRST CAUSE OF ACTION**

**(Recklessness, Gross Negligence and Negligence)**

3. That Paragraphs 1 and 2 are incorporated into this First Cause of Action as if repeated verbatim herein.

4. That the Defendants, jointly and severally, had an affirmative duty to the Plaintiff as a business invitee on its property, to warn of or eliminate any unreasonable risks or dangers on its premises.

5. That the Defendants, jointly and severally, breached this duty by allowing or permitting, through its negligence, gross negligence, recklessness, wilfulness and wantonness, the hazard and defective conditions to remain on the property in a place allowed for the passage of the Plaintiff and other customers despite having actual or constructive knowledge of same.

6. That as a direct and proximate result of the negligence, gross

negligence, recklessness, wilfulness and wantonness of the Defendants, both jointly and severally, the Plaintiff sustained serious, severe and permanent injuries to her right knee and ankle. That such injuries caused the Plaintiff to suffer extreme pain and suffering and to incur numerous medical expenses. That the Plaintiff should be granted a judgment against the Defendants, both jointly and severally, in a sum to be determined by a jury, for actual and punitive damages.

WHEREFORE, the Plaintiff seeks a judgment against the Defendants, in a sum to be determined by a jury, for actual and punitive damages and for such other and further relief as this Court deems just and proper.

Plaintiffs demand a jury trial.

THE ALLEN & ALLEN LAW FIRM

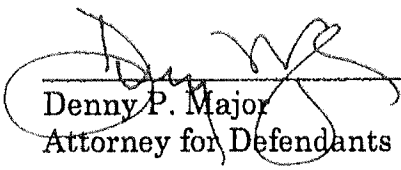
s/Donald L. Chuck Allen  
Donald L. Chuck Allen, SC Bar #10421

s/Joshua C. B. Allen  
Joshua C. B. Allen, SC Bar #80398  
Attorneys for Plaintiff  
PO Box 2861  
Anderson, SC 29622  
(864)226-6184


Dated: January 20, 2021  
Anderson, South Carolina

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| STATE OF SOUTH CAROLINA           | ) |                            |
|                                   | ) |                            |
| COUNTY OF ANDERSON                | ) | COURT OF COMMON PLEAS      |
|                                   | ) | TENTH JUDICIAL CIRCUIT     |
| Stephanie Nicole Sanders,         | ) |                            |
|                                   | ) |                            |
| Plaintiff,                        | ) | ACCEPTANCE OF              |
|                                   | ) | SERVICE                    |
| v.                                | ) | Case No.: 2020-CP-04-00591 |
|                                   | ) |                            |
| Carroll, LLC and Jane             | ) |                            |
| Doe, a citizen and resident of    | ) |                            |
| Anderson County, individually and | ) |                            |
| as agent of Carroll, LLC.         | ) |                            |
|                                   | ) |                            |
| Defendant.                        | ) |                            |

I, Denny P. Major, attorney for the Defendants, Carroll, LLC and Jane Doe, a citizen and resident of Anderson County, individually and as agent of Carroll, LLC, hereby accepts service of the Amended Summons and Amended Complaint in the above captioned case this 21<sup>st</sup> day of January, 2021.

  
 Denny P. Major  
 Attorney for Defendants

SWORN to before me this the  
21<sup>st</sup> day of January, 2021

  
 Notary Public of South Carolina

My Commission Expires: 02/17/2029